

ORIGINAL

EX PARTE OR LATE FILED

WILLKIE FARR & GALLAGHER

Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20036-3384

202 328 8000  
Fax: 202 887 8979

EX PARTE

August 4, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

RECEIVED

AUG 4 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Ex Parte Filing -- CC Docket No. 98-141**

Dear Ms. Salas:

WinStar Communications, Inc. ("WinStar") and Teligent, Inc. ("Teligent") hereby file this letter in response to the Joint Reply of SBC Communications Inc. and Ameritech Corporation ("SBC/Ameritech"), dated July 26, 1999 concerning the proposed conditions requiring SBC/Ameritech to provide access to intra-building wiring it controls in multi-tenant buildings.

SBC/Ameritech claims that the proposed trials to provide CLECs access at a single point of interface ("SPOI") to existing wiring controlled by SBC/Ameritech in MDUs and MTUs are necessary because the trials "will reveal the problems which may arise and permit the parties to work through any technical operations difficulties. It will also test the economic feasibility of offering these arrangements."<sup>1</sup> SBC/Ameritech's response completely ignores the fact, as explained by WinStar's and Teligent's Comments, that this type of access already is provided for by several ILECs.<sup>2</sup> In fact, one of SBC's States, California, requires that the demarcation point be located at the minimum point of entry ("MPOE"). In other States, such as Florida, Georgia, Kentucky, Nebraska, New York, Oregon, and Tennessee, ILECs provide unbundled use of their intra-building wiring; in fact, New York has provided for such access since 1992. Accordingly, the technical feasibility of transferring the use of intra-building wiring from one carrier to another is unquestionable. Hence, SBC/Ameritech have not presented any technical or economic

---

<sup>1</sup> SBC/Ameritech Reply at 69.

<sup>2</sup> See Comments of WinStar and Teligent at 8.

No. of Copies rec'd 0+2  
List ABCDE  
Washington, DC  
New York  
Paris  
London

difficulties arising from the establishment of an SPOI in all multi-tenant buildings.<sup>3</sup> Because SBC (like several other ILECs) already provides this access, there is no need for a "trial." Rather, SBC/Ameritech should be required to provide CLEC access to existing wiring it controls in all multi-tenant buildings at a SPOI throughout the entire SBC/Ameritech region.

In addition, as demonstrated by WinStar and Teligent, the Commission should require SBC/Ameritech to locate the SPOI at the MPOE in all multi-tenant buildings.<sup>4</sup> SBC/Ameritech claims, however, that an "MPOE may not exist on the property."<sup>5</sup> Pursuant to the Commission's rules, the MPOE is "the closest practicable point to where the wiring crosses a property line or the closest practicable point to where the wiring enters a multiple dwelling unit building."<sup>6</sup> It is possible (although very unlikely) that some buildings do not have an equipment room located in the basement but, by definition, every building has a minimum point of entry. SBC/Ameritech's assertion to the contrary is factually untrue.

Further, in a falsely paternalistic manner, SBC/Ameritech claims that it may be in the "CLEC's economic interests to have a SPOI at a different location than the MPOE."<sup>7</sup> It claims that the term "SPOI" gives carriers additional flexibility to negotiate other arrangements. It is precisely this flexibility that wreaks havoc on CLEC attempts to gain access to multi-tenant buildings.

Attempting to determine the location of the demarcation point is a difficult exercise itself. The greater barrier, though, is created by the CLECs' cost and time involved in duplicating intra-building facilities to the demarcation point where that demarcation point is not located at the MPOE. The MPOE offers the lowest cost and simplest point of interface between CLEC facilities and intra-building networks. The flexibility that SBC/Ameritech seeks amounts to the flexibility to increase the costs of entry on competitors and/or in some cases to effectively deny such entry as a practical matter. Indeed, it is disingenuous for SBC/Ameritech to imply that its proposal promotes the best interests of CLECs despite the CLEC requests to the contrary.<sup>8</sup>

---

<sup>3</sup> Contrary to SBC/Ameritech's assertion, the Commission may impose intra-building wiring conditions on the merger prior to final determinations in the pending Competitive Networks docket.

<sup>4</sup> Comments of WinStar and Teligent at 8-11.

<sup>5</sup> SBC/Ameritech Reply at 70.

<sup>6</sup> 47 C.F.R. § 68.3.

<sup>7</sup> SBC/Ameritech Reply at 70.

<sup>8</sup> It is also imperative that CLECs be given access to the wiring blocks at the MTE's MPOE without the necessity of SBC/Ameritech personnel being present (unless there are no cross-connect facilities at the MPOE). Such unescorted access already occurs in States where the demarcation point is at the MPOE, and any concerns over competitor access to

Ms. Magalie Roman Salas

August 4, 1999

Page 3

As noted in the Comments submitted by WinStar and Teligent, if the conditions on the proposed merger are found to promote the public interest, they should be meaningful and effective in accomplishing the Commission's public interest objectives. To that end, the Commission should require SBC/Ameritech to offer access to intra-building wiring it controls in all multi-tenant buildings in its region at the minimum point of entry.

Sincerely,

A handwritten signature in black ink, appearing to read "Angie Kronenberg". The signature is fluid and cursive, with the first name "Angie" written in a larger, more prominent script than the last name "Kronenberg".

Philip L. Verveer

Gunnar D. Halley

Angie Kronenberg

Attorneys for

WinStar Communications, Inc. and

Teligent, Inc.

---

SBC/Ameritech's network components could be addressed contractually through the imposition of industry-accepted technical standards or certification.

## CERTIFICATE OF SERVICE

I, Rosalyn Bethke, do hereby certify that on this 4th day of August 1999, copies of the foregoing ex parte letter of Teligent, Inc. and Winstar Communications, Inc. filed today with the FCC in CC Docket No. 98-141 were served by first class mail, postage prepaid, or hand delivered as indicated, on the following parties:

Chief\*  
Policy and Program Planning Division  
Common Carrier Bureau  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Chief\*  
Commercial Wireless Division  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Chief\*  
(two copies)  
International Bureau  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Janice Myles\*  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Jeanine Poltronieri\*  
Wireless Telecommunications Bureau  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

William Dever\*  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Radhika Karmarkar\*  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Michael Kende\*  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 Twelfth Street, SW  
Washington, D.C. 20554

Bob Atkinson\*  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Elizabeth Nightingale\*  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Audrey Wright\*  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Johanna Mikes\*  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Johnson Garrett\*  
Office of Plans and Policy  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Bill Rogerson\*  
Office of Plans & Policy  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Pamela Megna\*  
Office of Plans and Policy  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Tom Krattenmaker\*  
Office of Plans & Policy  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Patrick DeGraba\*  
Office of Plans & Policy  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

International Transcription Service\*  
1231 20th Street, NW  
Washington, DC 20554

Ellis Jacobs, Esq.  
Dayton Legal Aid Society  
333 West 1st Street, Suite 500  
Dayton, Ohio 45402  
Counsel for Edgemont  
Neighborhood Coalition

Kerry Bruce  
City of Toledo  
Department of Public Utilities  
420 Madison Avenue, Suite 100  
Toledo, Ohio 43604-1219

Philip W. Horton, Esq.  
Arnold & Porter  
555 12th Street, NW  
Washington, D.C. 20004-1206  
Counsel for SBC Communications Inc.

Antoinette Cook Bush  
Skadden Arps Slate Meagher  
& Flom LLP  
1440 New York Avenue, NW  
Washington, DC 20005-2111  
Counsel for Ameritech Corporation

Anna Montana, Mayor  
Village of Schiller Park  
9526 West Irving Park Road  
Schiller Park, IL 60176

Mavis Pizella  
Manager, Network Services  
Levi Strauss & Co.  
Levis Plaza  
P.O. Box 7215  
San Francisco, CA 94120

Mary Carol Kelley  
Director, Worldwide Communications  
Compaq Computer Corporation  
20555 Tomball Parkway  
Houston, TX 77070

Nina Holland  
AMOCO  
501 Westlake Park Boulevard  
Post Office Box 3092  
Houston, TX 77253-3092

Guy T. Gray  
VP Telecommunications  
Cendant Corporation  
6 Sylvan Way  
Parsippany, NJ 07054

G. Nichols Simonds  
Vice President & Chief Information Officer  
Emmerson Electric Co.  
8000 West Florissant Avenue  
St. Louis, MO 63136

CTC Communications Group  
William L. Fishman  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007-5116

John Vitale  
Bear, Stearns & Co., Inc.  
245 Park Avenue  
New York, NY 10167

Dr. Mark Cooper  
Consumer Federation of America  
1424 16th Street, NW  
Washington, DC 20036

Ronald J. Binz  
Executive Director  
CPI - Competition Policy Institute  
1156 15th Street, NW, Suite 520  
Washington, DC 20005

Frederic Lee Ruck  
Executive Director  
The National Association of  
Telecommunications Officers and Advisors  
1650 Tysons Blvd., Suite 200  
McLean, Virginia 22102

Merle C. Bone  
Shell Oil Company  
One Shell Plaza  
P.O. Box 2463  
Houston, TX 77252-2463

Edward Jones  
201 Progress Parkway  
Maryland Heights, MO 63043-3042

Richard B. Davis  
Telecommunications Manager  
A. H. Belo Corporation  
P.O. Box 655327  
Dallas, TX 75205

South Austin Community Coalition  
Council, et al.  
Walter Ryan Jr., Tiesdo re Chabreja,  
Anita B. Hall, Robert Rifkin  
Kenneth T. Goldstein  
c/o Krislov & Associates, Lts.  
Suite 2120  
222 North La Salle Street  
Chicago, IL 60601-1066

Kansas Corporation Commission  
Elisabeth H. Ross, Its attorney  
Birch, Horton, Bittner and Cherot  
1155 Connecticut Avenue, N.W.  
Suite 1200  
Washington, DC 20036

Pam Whittington  
Public Utility Commission of Texas  
1701 N. Congress Avenue.  
P. O. Box 13326  
Austin, TX 78711-3326

Terry L. Etter  
David C. Bergmann  
Ohio Consumers' Counsel  
77 S. High Street, 15th Floor  
Columbus, Ohio 43266-0550

Corecomm Newco, Inc.  
Eric J. Branfman  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W.  
Suite 300  
Washington, DC 20008

McLeodUSA Telecommunications  
Services, Inc.  
Richard M. Rindler  
Douglas G. Bonner  
Swidler & Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, DC 20007-5116

JSM Tele-Page, Inc.  
Thomas Gutierrez, Its Attorney  
Lukas, Nace, Gutierrez & Sachs, Chartered  
1111 Nineteenth Street, N.W., Suite 1200  
Washington, DC 20036

Terence J. Ferguson  
Senior Vice President and Special Counsel  
Level 3 Communications, Inc.  
3555 Farnum Street  
Omaha, Nebraska 68131

The Parkview Areawide Seniors, Inc.  
c/o Joseph P. Meissner  
Attorney at Law  
Cleveland Legal Aid Society  
1223 West 6th Street  
Cleveland, Ohio 44113

Janice Mathis, Esquire  
Counsel  
Rainbow/PUSH Coalition  
930 East 50th Street  
Chicago, Illinois 60615

Focal Communications  
Russell M. Blau  
Robert V. Zener  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, DC 20007-5116

Hyperion Telecommunications, Inc.  
Douglas G. Bonner  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, DC 20007-5116  
Its Attorneys

Debra Berlyn  
Executive Director  
Competition Policy Institute  
1156 15th Street, N.W., Suite 520  
Washington, DC 20005

Kent Lassman  
Regulatory Policy Analyst  
Citizens for a Sound Economy Foundation  
1250 H Street, N.W., Suite 700  
Washington, DC 20005-3908

Allen Parker  
Village Manager  
Village of Maywood  
115 South Fifth Avenue  
Maywood, IL 60153

Public Utilities Commission of Ohio  
Steven T. Nourse  
Assistant Attorney General  
Public Utilities Section  
180 E. Broad Street  
Columbus, OH 43215

Lisa Youngers  
MCI WorldCOM, Inc.  
1801 Pennsylvania Avenue, NW  
Washington, DC 20006

The Alarm Industry Communications Committee  
Kelley Drye & Warren LLP  
1200 19th Street, N.W.  
Washington, DC 20036  
Its Attorneys

Lynda L. Dorr  
Wisconsin Public Service Commission  
610 N. Whitney Way  
Madison, WI 53705-2729  
Its Attorney

Angela Ledford  
Executive Director  
Keep America Connected!  
901 15th Street, N.W.  
Washington, DC 20005

Jeffrey J. Ward  
Ross, Dixon & Masback, L.L.P.  
601 Pennsylvania Avenue, N.W.  
North Building  
Washington, DC 20004-2688

Jeffrey A. Eisenach  
President  
The Progress & Freedom Foundation  
1301 K Street, N.W.  
Suite 550 East  
Washington, DC 20005



David C. Bergmann  
Assistant Consumers' Counsel  
Ohio Consumers' Counsel  
77 S. High Street, 15th Floor  
Columbus, OH 43266-0550  
Counsel for Consumer Coalition; Indiana Office  
of Utility Consumer Counselor; Missouri Office  
of the Public Counsel; Ohio Consumers'  
Counsel; Texas Office of the Public Utility  
Counsel; The Utility Reform Network

Communications Workers of America  
1819 Hymer Avenue  
Sparks, NV 89431

Kathleen F. O'Reilly  
Attorney at Law  
414 "A" Street, S.E.  
Washington, DC 20003  
Counsel for Michigan Consumer Federation

Walter Steimel, Jr.  
Marjorie K. Conner  
Hunton & Williams  
1900 K Street, N.W.  
Suite 1200  
Washington, DC 20006  
Counsel for Pilgrim Telephone, Inc.

John Heitmann  
Kelley Drye & Warren LLP  
1200 19th Street, N.W.  
Suite 500  
Washington, DC 20036  
Counsel for e.spire Communications, Inc.

Leon Kestenbaum  
Sprint Communications Company L.P.  
1850 M Street, N.W.  
11th Floor  
Washington, DC 20036

Sandy Ibaugh  
Indiana Utility Regulatory Commission  
Suite E306  
Indiana Government Center South, 302  
10 Washington Street  
Indiannapolis, Indiana 46204

AT&T Corp.  
C. Frederick Beckner, III  
Sidley & Austin  
1722 Eye Street, NW  
Washington, DC 20006-3705  
Its Attorney

Time Warner Telecom Inc.  
Thomas Jones  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 21st Street, NW - Suite 600  
Washington, DC 20036  
Its Attorney

KMC Telecommunications, Inc.  
Mary C. Albert  
Swidler Berlin Shereff & Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007-5116  
Its Attorney

Telecommunications Resellers Association  
Charles C. Hunter  
Hunter Communications Law Group, P.C.  
1620 Eye Street, NW - Suite 701  
Washington, DC 20006  
Its Attorney

Jonathan Askin  
Association for Local Telecommunications  
Services  
888 17th Street, NW  
Suite 900  
Washington, DC 20006

Cynthia R. Bryant  
Office of Public Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Truman State Office Building  
Jefferson City, MO 65102



Rosalyn Bethke

\* By Hand Delivery